FINDINGS OF FACTS AND CONCLUSIONS OF LAW

The Petitioners request approval of a Special Exception for a car wash, as more particularly described on Petitioners' Exhibit 1.

The Petitioners, Siena Corporation a. J John C. Childs, Sr., were represented by Benjamin Bronstein, Esquire and testimony was proffered by him. The Petitioners' witnesses, Messrs. Albert Amadio, Jr., Bernard R. Theriault and Richard L. Smith of Kidde Consultants, supported the testimony proffered by Mr. Bronstein. There were no Protestants.

The Petitioner's attorney proffered evidence concerning the case and detailed the proposal and explained the requested relief as set forth on Petitioners' Exhibit 1. The Petitioners' witnesses and, specifically, Mr. Smith, testified extensively as to the operation of the proposed car wash and its perceived impact upon the health, safety and general welfare of the community. Mr. Smith provided a detailed explanation of the proposed landscaping plan which has been accepted as Peitioners' Exhibit 2 and provided detailed testimony as to the operation of this particular facility and its impact upon the residential community located on Weyburn Road across from the subject

testified that, in their opinion, the proposed use at the subject property would not be detrimental to the health, safety, and general welfare of the community, and that the conditions delineated in Section 502.1 of the B.C.Z.R. will be satisfied.

The Petitioners' witnesses, Messrs. Amadio, Theriault and Smith

Mr. Richard Smith, also, testified that, based on his professional experience, it was his opinion that the business would not cause any adverse impact and would not create traffic congestion over and above what already exists. He *estified that the conditions delineated in Section 502.1 Baltimore County Zoning Regulations (B.C.Z.R.) will be satisfied.

The issue in the Special Exception is whether or not the requirements of Section 502.1 of the B.C.Z.R. have been successfully met by the Petitioner. The cases clearly establish that ". . . the appropriate standard to be used in determining whether a requested special exception use would have an adverse affect and, therefore, should be denied is whether there are facts and circumstances that show the particular use, proposed at the particular location, would have any adverse affect above and beyond those inherently associated with such a special exception use irrespective of its location within the zone." Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 at 1327 (1981).

The Court went on to say in Schultz that,

". . . the applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his

burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of z ning fairly debatable, the matter is one for the Board to decide. But, if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is

The Petitioner must only show, to the satisfaction of the Zoning Commissioner, that the proposed use would be conducted without real detriment to the community to meet his burden. See, Turner v. Hammond 270 Md. 41, 310 A.2d 543 (1973). When the Petitioner produces credible and probative evidence on all of the specific issues estab-

In fact, the Petitioner has shown that the proposed use would be conducted without real detriment to the community and would not

After reviewing all of the testimony and evidence presented, it appears that the Special Exception should be granted with certain

Pursuant to the advertisement, posting of the property, and public hearing held, it appears that the requirements of Section 502.1 have been met and the health, safety, and general welfare of the community will not be adversely affected. Therefore, the Special

THEREFORE, IT IS ORDERED, by the Zoning Commissioner of Baltimore

Item 300

arbitrary, capricious and illegal." (at pg.1325)

lished by Section 502.1, then a special exception should be granted.

adversely affect the public good.

restrictions, more fully described below.

Exception should be granted.

County, Maryland, this 5 day of April, 1989 that the Petition for Special Exception for a car wash, as more particularly described on

Baltimore County Zoning Commissioner Office of Planning & Zoring Towson, Maryland 21204 (301) 887-3353 J. Robert Haines

April 3, 1989

Benjamin Bron tein, Esquire Evans, George and Bronstein 29 W. Susquehanna Avenue Suite 205 Towson, Maryland 21204

RE: Petition for Special Exception Case #88-389X Siena Corp., Contract Purchaser John C. Childs, Sr., Legal Owner, Petitioners

Dear Mr. Bronstein:

Enclosed please find the decision rendered in the above captioned case. The Petition has been granted, in accordance with the attached

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, pleae feel free to contact our Appeals Clerk at 887-3391.

Zoning Commissioner

cc: Peoples Counsel Mr. Albert Amadio, Jr., 600 W. Broad Street, Palmyra, N.J. 08065 Mr. Bernard R. Theriault, 6 Brickers Lane, Pikesville, Md. 21208 Mr. Richard L. Smith, Kidde Consultants, 1020 Cromwell Bridge Rd. Towson, Md. 21204

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	PETITION FOR SP	ECIAL EXCEPTION	N
	TO THE ZONING COMMISSIONER OF BALTIM	IORE COUNTY: F9.	-389-X
The state of the s	The undersigned, legal owner(s) of the pr described in the description and plat attached h Special Exception under the Zoning Law and Z	operty situate in Baltimore Count	ty and which is
	herein described property for A Carwash		
		•	
	Property is to be posted and advertised as pr	rescribed by Zoning Regulations.	
	I, or we, agree to pay expenses of above Spec of this petition, and further agree to and are to l of Baltimore County adopted pursuant to the Zor	18 DOITED BY the gening regulations	etc., upon filing and restrictions
		I/We do solemnly decunder the penalties of penare the legal owner(s) of which is the subject of this	jury, that I/we of the property
	Contract Purchaser:	Legal Owner(s):	MAP NE 4E
	SIENA CORPORATION	JOHN C. CHILDS, SR.	MAP
•	(Type or Print Name) BY:	(Type Or Print Name)	1 14
	Signature	Signature Calde	E. D
ν.	8350 BRISTOL COURT, STE. 101	7-8	DATE OLI
	Address	(Type or Print Name)	200
	JESSUP, MARYLAND 20794		1000 _ 1001 .
-	City and State	Signature	DP
	Attorney for Petitioner: BENJAMIN BRONSTEIN AND EVANS, GEORGE & BRONSTEIN	3701 BUTLER ROAD	11 149 15 833-0402 = 30,88
	(Type or Print Name)	Address GLYNDON, MARYLAND 21071	Phone No.
2	Sign ture	City and State	
R FILING	25 W. SUSQUEHANNA AVENUE, STE. 205	•	
E E	Address	Name, address and phone number of tract purchaser or representative to	legal owner, con- be contacted
1200	TOWSON, MARYLAND 21204	RICHARD SMITH, KIDDE CONST	JLTANTS
Well.	City and State	Name	TYPE CONTRACTOR
127	Attorney's Telephone No.: (301) 296-0200	1020 CROMWELL BRIDGE ROAD Address	Phone No. 321-5500
		•	
G	ORDERED By The Zoning Commissioner of F	Saltimore County, this	day
	of, 19_6_7, that the	subject matter of this petition be	advertised, as
000	required by the Zoning Law of Baltimore County,	in two newspapers of general circul	ation through-
	out Baltimore County, that property be posted, and		_
	Commissioner of Baltimore County in Room 106,	County Office Building in Tows	on, Baltimore
	County, on the 29th day of 2	nacen , 1987, at	o'clock
	. А.м.	1. Robert &	y in a
		Zoning Commissioner of Balt	~
	Z.C.O.—No. 1 (ove	r)	•
ESTIMATED	LENGTH OF HEARING -1/2HR. (1HR.)		
Кол	AVAILABLE FOR HEARING N./TUES./WED NEXT TWO MONTHS		
ALL \	OTHER	.#a	

Petitioners' Exhibit 1, be and the same is hereby GRANTED, subject to

the following restrictions:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. The Petitioners shall comply with all landscaping requirements set forth on Petitioners' Exhibit 2. The Petitioners shall maintain and replace all vegetative material shown on Petitioners' Exhibit 2 and develop healthy vegetative material as delineated and prescribed on Petitioners' Exhibit 2.

3. The Petitioners shall obtain all necessary approvals as outlined in Section 419.3 of the B.C.Z.R. prior to obtaining any building and/or excavation permits for the subject property.

4. Upon request and reasonable notice, the Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

5. When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

6. All parking lot lighting shall be no more than 12' feet above-grade. All exterior lighting shall be directed downward and shall not defuse onto any residential property.

> ZONING COMMISSIONER OF BALTIMORE COUNTY

cc: Peoples Counsel Benjamin Bronstein, Esquire Albert Amadio, Jr. Bernard R. Theriault Richard L. Smith, Kidde Consultants

69-369X

2102	DDTMT	OF PART V		DEPTITION	TER (S)	STON-	.TN	SH

PLEASE PRINT CLEARLY	PETITIONER(S) SI	GN-IN SHEET		
Lugamin Fronstan Albert amadix Bernanz R. Therin BICHARO L. Sm.		205 Suoque 600 W Broad 6 BRICKER	NOORESS Lhanne Blog LST Palmyn LA LANCE BAL DUE RO 3	21204 21204 1093 11093
	•			

Dennis F. Rasmussen
County Executive

Description
1.0 Acre, More or Less Parcel Portion of Kenway Center Northwest Corner of Weyburn Road & Golden Ring Road Election District 14 - Baltimore County, Maryland

This Description is for a "Special Exception In a "BL-CNS" Zone BEGINNING FOR THE SAME at a point on the east side of

Weyburn Road, said point of beginning being located N 20° 50' 10" E 55.00 from the center line of Golden Ring Road, thence binding on the east and northeast sides of Weyburn Road .he two following courses & distances (1) N 20° 50' 10" E 90.89', (2) by a curve to the right with a radius of 370.00, an arc distance of 214.61; and a chord of N 37° 27' 10" E 211.61' to a point, thence the three following courses & distances (3) S 09° 18' 20" E 229.61', (4) N 80° 41' 40" E 119.28', (5) S 69° 09' 50" E 70.20' to intersect the west side of Kenwood Avenue, thence binding on the west side of Kenwood Avenue (6) S 09° 18' 20" E 46.25' to a point, thence the following 4 courses & distances (7) N 69° 09' 50" W 102.57', (8) S 80° 41' 40" W 75.00', (9) N 69° 09' 50" W

KIDDE CONSULTANTS, INC.

302

60.14' (10) S 20° 50' 10" W 102.34' to intersect the northeast side of Golden Ring Road, thence binding on said road (11) N 69° 09' 50" W 119.82' to the beginning of the curve connecting Golden Ring Road to Weyburn Road, thence binding on said curve to the right with a radius of 25.00; an arc distance of 39.27 and a chord of N 240 09' 50" W 35.36' to the place of beginning. CONTAINING one (1) acre of land more or less

KCI J.O. No. 01-85110D

Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 494-3353

J. Robert Haines
Zoning Commissioner

NOTICE OF HEARING

2/24/89

Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Exception E/S Weyburn Road, 55' NE c/1 Golden Ring Road (Kenway Center) 14th Election District - 6th Councilmanic Legal Owner(s): John C. Childs, Sr. Contract Purchaser(s): Siena Corporation HEARING SCHEDULED: WEDNESDAY, MARCH 29, 1989 at 10:00 a.m.

Special Exception: A Car Wash.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

. Polont flaires

J. ROBERT HAINES Zoning Commissioner of Baltimore County Siena Corporation Benjamin Bronstein, 🗀 👊 John C. Childs, 5r.

89-389-X

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Your petition has been received and accepted for filing this lat day of February , 1983.

Petitioner John C. Childs, Sr. Petitioner's Benjamin Bronstein Received by: James E. Dwer Chairman, Zoning Plans Advisory Committee

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

March 15, 1989

COUNTY OFFICE BLDG. Ili W. Chesapeake Ave. Towson, Maryland 21204 000

Burcau of

Engineering

Traffic Engineering

lureau of 'ire Prevention

lealth Department

roject Flanning

Board of Education

Industrial

Zoning Administration

itate Roads Commissio

The Zoning Coercisateser of Balamore County, by authority of the Zoning Act and Regulations of Balamore County will hold a public hearing on the property identified fremen in Floom 106 of the County Office Building, located at 111 W. Chessphele Avenue in Toweon, Maryland 21204

In the event that this Petition is

appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the insuance of said permit during this

period for good cause shown. Such request must be in writing and received in this office by the

date of the hearing set above or presented at the hearing.

J. ROBERT HAINE

Evans, George & Bronstein 29 W. Susquehanna Avenue, Suite 205 Towson, MD 21204

Spaced Exception

John CChildy Sr. of Slove Corp

Location of property E/S Wey hurn Rd , 5 NE/ Golden Ring Rd

Location of Signer Facining in torsuction of Golden Ring VW y Song Ross.

approx 10 Fr. 2000 Way, on proporty of fall Twins

MEMBERS Department of

Dear Mr. Bronstein:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested

Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVEANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

CERTIFICATE OF PUBLICATION

NORTHEAST TIMES

THE JEFFERSONIAN.

89-389-X

Date of Posting 3/2/89

Date of return: 3/10/89

THIS IS TO CERTIFY, that the annexed advertisement was

published in THE JEFFERSONIAN, a weekly newspaper printed

and published in Towson, Baltimore County, Md., appearing on

March 9 , 1989.

PO 10474

nea M + 1064

price \$71.12

CERTIFICATE OF POSTING

TOMING DEPARTMENT OF BALTIMORE COUNTY

Benjamin Bronstein, Esquire

RE: Item No. 302, Case No. 89-389-X Petitioner: John C. Childs, Sr. Petition for Special Exception

Enclosed are all comments submitted from the members of the

Very truly yours,

James E. Deperton JAMES E. DYER Chairman Zoning Plans Advisory Committee

Enclosures

Maryland Department of Transportation State Highway Administration

Richard H. Trainor Hal Kassoff

February 22, 1989

Mr. J. Robert Haines Zoning Commissioner County Office Building Towson, Maryland 21204

Attn: Mr. James Dyer

Kenway Center Siena Corporation Zoning Meeting of 1-31-89 E/S Weyburn Road, 55' East of Golden Ring Rd. (Item #302)

Re: Baltimore County

Dear Mr. Haines:

After reviewing the submittal for a special exception for a car wash, we find the plan acceptable.

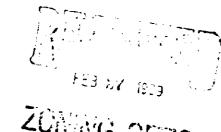
If you have any questions, please contact Larry Brocato at 333-1350.

Very truly yours,

ereston J. Mills, Jr., Chief Bureau of Engineering Access Permits

LB:maw

cc: Kidde Consultants, Inc. Mr. J. Ogle



My telephone number is (301) 333-1350 Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

Petition for Special Exception E/5 Weyburn Road, 55' NE c/1 Golden Ring Road (Kenway Center)

8350 Bristol Court, Suite 101

Baltimore County
Zoning Commissioner
Office of Planning & Zoning

Towson, Maryland 21204

494-3353

J. Robert Haines Eurog Communities

Siena Corporation

Jessup, Maryland 20794

14th Election District - 6th Councilmanic Legal Dwner(s): John C. Childs. Sr. Contract Purchaser(s): Siena Corporation HEARING SCHEDULED: WEDNESDAY, MARCH 29, 1989 at 10:00 a.m.

Please be advised that \(\frac{12}{56.12} \) is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

Date: 3/3/59

Dennis F. Rasmussen
County Executive

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

it along with the sign(s) and Building Please make your check payable to Baltimore County Maryland and bring ice, County Office minutes before BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION post set(s), there MISCELLANEOUS CASH RECEIPT each set not ACCOUNT P-01-015-000

Posting & Advartising (ASI) = 51 3811

Baltimore County Department of Public Works Bureau of Trailic Engineering Courts Building, Suite 405 Towson, Maryland 21204 494-3554

March 1, 1989



Mr. J. Robert Haines Zoning Commissioner County Office Building Towson, MD 21204

Dear Mr. Haines,

The Bureau of Traffic Engineering has no comments for items number 275, 299, 300, 301, 302, 303, 304, 305, 306, 307, & 308.

Very truly yours

Michael S. Flanigan

Traffic Engineer Assoc. II

MSF/lab

ZONING OFFICE

Baltimore County Fire Department Towson, Maryland 21204-2586

Paul H. Reincke

494-4500

February 14, 1989

J. Robert Haines, Zoning Commissioner Office of Planning & Zoning Baltimore County Office Building Towson, Maryland 21204 Contract Purchaser:



Re: Property Owner: Siena Corporation Legal Owner: John C. E/S of Weyburn, 55' NE of the Con Childs, Definis F. Rasmussen

Location: centerline of Golden Ring

Item No.: 302

Zoning Agenda Meeting of January 31, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals or ____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at ___ EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(x) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

Special Inspection Division

/j1

BATIMORE COUNTY, MARTAND

INTER-OFFICE CORRESPONDENCE

J. Robert Haines TO Zoning Commissioner Date March 29, 1989

Pat Keller, Deputy Director FROM Office of Planning and Zoning

Siena Corp./John Childs SUBJECT Zoning Petition No. 89-389-X



The petitioner is requesting a special exception to provide a car wash. reference to this request, staff provides the following information:

- The project received CRG approval on 8/29/88. The CRG approval for this parcel was a 7,500 sq. ft. retail center. The car wash results in a significant change in use and will require an amendment to the CRG plan.
- Staff's primary concerns regarding this site center on the project's impact in the residences located to the west of the project. Issues that need to be addressed inc _ie:
- 1. Hours of operation should be limited to more compatible hours that might include 7:00 a.m. to 9:00 p.m. or 10:00 p.m., including week-ends. The applicant is proposing 24 hour service.
- 2. Lighting lighting of the site should be carefully regulated and directed so as not to impact the residences.
- 3. Buffering and Landscaping buffering and landscaping areas are minimal for this site and should be upgraded beyond the minimums required.
- 4. Traffic circulation the circulation of traffic should be carefully reviewed by the Bureau of Traffic Engineering.

Based upon the analysis conducted, staff recommends approval of the applicant's request subject to the following:

- A landscape plan shall be reviewed and approved by the County Landscape Planner.
- The hours of operation should be reduced from 24 hour service to :00 a.m. - 10:00 p.m. service.
- Lighting of the site should be low level and directed away from adjoining residences.

PK/sf

